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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,802	01/04/2001	Tohru Enoki	FUJO 18.191	3282
26304	7590	03/28/2005	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			KADING, JOSHUA A	
		ART UNIT	PAPER NUMBER	
		2661		

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/754,802	ENOKI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Joshua Kading	2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 18 October 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-3 and 6-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3 and 6-8 is/are rejected.

7)  Claim(s) 1 and 6-8 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 18 October 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All   b)  Some \* c)  None of:

- 1.  Certified copies of the priority documents have been received.
- 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Objections***

Claims 1 and 6-8 are objected to because of the following informalities:

Claim 1, line4; claim 6, lines 4-5; claim 7, lines 3-4; and claim 8, line 4 state, "a  
5 label switched path". Since this will cause confusion later in the claims, it is suggested  
"a label switched path" be changed to --the label switched path--.

Claim 1, lines 9 and 10; claim 6, lines 10, 11, and 16; claim 7, lines 11, 12, and  
17; and claim 8, lines 9 and 10 state, "the other label". There is no antecedent basis for  
this limitation. Therefore, it is suggested applicant change "the other label" to --the  
10 another label--.

Claim 1, line 13; claim 6, line 14; and claim 7, line 15 state, "a set-up label  
switched path". Since there has already been a disclosure of "a set-up label switched  
path" earlier in each claim, it is suggested "a set-up label switched path" of the  
corresponding lines of each claim be changed to --a new set-up label switched path-- or  
15 --a separate label switched path-- or --a different label switched path--.

Claim 1, lines 14, 16, and 18; claim 6, lines 14-15; claim 7, lines 15-16; and claim  
8, lines 13-14, 15, and 17 state, "a another label" or "another label". To avoid confusion  
in the claims these should both be changed to --said another label-- or --the another  
label--.

20 Claim 1, line 14; claim 6, line 15; claim 7, line 16; and claim 8, line 11 state, "a  
label request". To avoid confusion, this should be changed to --the label request-- or  
--said label request--.

Claim 1, line 15; claim 6, line 16; and claim 7, line 17 state, "the learned path".

For clarity this should be changed to --the [new or separate or different] label switched path--, to be more consistent with prior claim language.

Appropriate correction is required.

5

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

10 The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15 Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

20 Regarding claims 6 and 7, applicant discloses "notifying the path" on lines 17 and 18 respectively. A path is merely the medium by which signals, people, etc. travel to get from point A to point B. The path has no means to respond to, react to, or even store the notification. Therefore, how can a path be notified?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

25 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 6, 7, and 8 recite the limitation "the path" in lines 17, 17, 18, 5 and 16 respectively. There is insufficient antecedent basis for this limitation in the claim. Further, it is not clear which path applicant is referring to. There are several paths disclosed previously in each claim and clarification is required.

Regarding claims 1, 6, 7, and 8 recite the limitation "the notified path" in lines 18, 17, 18, and 16 respectively. There is insufficient antecedent basis for this limitation in 10 the claim.

Regarding claims 6 and 7 recite the limitation "the same label" in lines 18 and 19 respectively. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

15 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

20 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,697,361 B2, Fredette et al. (Fredette) in view of U.S. Patent 25 6,683,874 B1, Nagami et al. (Nagami).

Regarding claims 1, 6, 7, and 8, Fredette discloses the devices of claims 1 and 8, the computer program of claim 6 (col. 15, claim 16, lines 36-38), and the method of claim 7. Fredette further disclose, "a decision device, when a label request is received, deciding whether there exists a label switched path which has already been

- 5 set up and which corresponds to a path requested in the label request (col. 14, claim 12, lines 44-54); a label allocation device, when the set-up label switched path exists, allocating another label, for the label request which is the same as a label of the set-up label switched path (col. 14, claim 12, lines 55-60)...a path learning device automatically learning a new set-up label switched path that cannot be allocated the
- 10 another label which is the same as the label for the set-up label switched path and prohibiting allocation of such another label for the learned new label switched path (col. 14, claim 13 and figure 6 blocks 615 and 625 where the path is learned in block 615 and 625 by the result of assigning a new label and at the same time prohibits allocation of "the another label" because block 615 does not allow a new path to use the already
- 15 existing "another label")..."

However, Fredette lacks what Nagami discloses, "when a request to release the another label has been received, the...label allocation device notifies the path learning device of the new path and the path learning device learns the new path as a path that cannot be allocated the another label (figure 4 where this shows the process for changing a path if a router or other node in the network changes and updating the system of new paths)." Further, although Fredette and Nagami do not explicitly disclose "a different allocation device", it would have been obvious to one with ordinary skill in

the art to include a “different allocation device” as a matter of design choice because adding another allocation device to a system that already has an allocation device is a preference of the designer. A system with one allocation device can perform the same functions as a system with two allocation devices.

5        It would have also been obvious to one with ordinary skill in the art at the time of invention to include the reperforming of the label allocation with the device of claim 1 for the purpose of reducing the number of labels required for the given routes in the system (Nagami, col. 7, lines 51-53). The motivation is that by having the least possible labels representing the routes, the time for a route lookup is reduced thus increasing  
10      efficiency.

Regarding claim 2, Fredette and Nagami disclose, the device of claim 1. However, Nagami lacks what Fredette further discloses, “wherein the decision device decides that the path corresponding to the label request is the same as the set-up label  
15      switched path when the path corresponding to the label request and the set-up label switched path coincide with each other in a combination of an ingress router and an egress router and routers located between the ingress router and the egress router (col. 5, lines 17-31).” It would have been obvious to one of ordinary skill in the art at the time of invention to include the paths coinciding with each other in a combination of ingress  
20      and egress routers for the same reasons and motivation as in claim 1.

Regarding claim 3, Fredette and Nagami disclose the device of claim 1.

However, Fredette lacks what Nagami further discloses, that is “the label allocation device allocates the same label for a plurality of forwarding equivalence classes, and when a change has occurred in the label switching network for one of the forwarding equivalence classes, the label reallocation device temporarily releases a label allocated to a path between an ingress router and an egress router and performs processing for reperfoming label allocation between the ingress router and the egress router (figure 4 shows the process for the changing of a path if a router or other node in the network is added or updated in some way).” It would have been obvious to one with ordinary skill in the art at the time of invention to include the reperforming of the label allocation for the same reasons and motivation as in claim 1.

### ***Response to Arguments***

Applicant's arguments, see REMARKS, page 7, lines 4-5, filed 18 October 2004, with respect to the objections of drawings 1A-1E have been fully considered and are persuasive. The objections of drawings 1A-1E have been withdrawn.

Applicant's arguments, see REMARKS, page 7, line 6, filed 18 October 2004, with respect to the objections of claims 1, 2, 6, 7, and 8 have been fully considered and are persuasive. The objections of claims 1, 2, 6, 7, and 8 have been withdrawn.

Applicant's arguments, see REMARKS, page 7, line 13-14, filed 18 October 2004, with respect to the 35 U.S.C. 112, second paragraph rejection of claims 3, 4, and 5 have been fully considered and are persuasive. The 35 U.S.C. 112, second paragraph rejection of claims 3, 4, and 5 have been withdrawn.

5

Applicant's arguments with respect to claims 1-3 and 6-8 (by way of canceling previous claim 5 and adding the limitations to claims 1-3 and 6-8) have been considered but are moot in view of the new ground(s) of rejection.

10

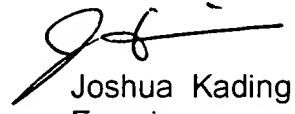
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's 15 supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

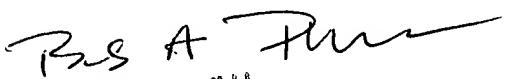
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

- 5 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joshua Kading  
Examiner  
Art Unit 2661

10 March 21, 2005



BOB PHUNKULH  
PRIMARY EXAMINER